How to get Maharashtra government to respond to application/complaint/representation

When a citizen applies for a ration card, water connection, change of name or any such purpose he often gets no response from the government office. Claims for pensions, refunds or other schemes meet with the same pompous disdain. The response to complaints of illegal activities, bad roads, encroachment or illegal construction, or communications to registrar of societies or charity commissioner is also similar. Often citizens try and pursue these matters by going repeatedly to the government offices and pleading. Most times the end result is a chastened, frustrated and humiliated citizen paying a bribe to get some action, or just giving up.

Most citizens are unaware that there is a very powerful law in Maharashtra which can ensure a decision in all such matters within 45 days. It has a cumbersome name– "Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005[i]" It is commonly known as, "Transfers, Charters and Delays Act 21, 2006." If we ensure complete implementation of this law it could change the structure of our democracy. RTI worked because citizens used and spread it. This law has a greater potential. Instead of cribbing about bad governance, let us educate others and get it implemented.

There are three important aspects of this law, but presently let us look at one which can get great relief to citizens:
Section 10 of the act clearly states that no decision on any file can take more than 45 days, if a matter has to be decided within a department. If many departments are involved the

limit is 90 days. Most decisions must be taken within three levels and no officer can keep a file on his table for more than seven working days. Rule 10(3) states that in case of delay, the competent authority must fix responsibility on the officers concerned and take disciplinary action if any officer is guilty of negligence

When a representation, complaint or application has been made by any citizen, a decision has to be conveyed within 45 days. Failure to respond to a application, representation, or complaint is a violation of this law. When such an eventuality is brought to the attention of the head of office or department, a preliminary enquiry must be conducted within 15 days. If “any intentional delay or negligence” has taken place, then disciplinary action must be initiated against the responsible officer. Most citizens are unaware about the powerful provisions of this law. The few who are aware and have tried to invoke its provisions have generally met with arrogant indifference and a pompous disdain. In gross violation of the act, senior secretaries have refused to even acknowledge the receipt of letters pointing out violations. Even proposals from one department to another are neglected, and the working continues in a lackadaisical manner. One example of this is that even when sanction to prosecute officers guilty of corruption is sought by the Anti-Corruption Bureau, it languishes for years without any response. Reasonable efficiency in government working, which this law tries to ensure, is being subverted by the bureaucracy’s reluctance to implement it.

Every complaint, application or representation by a citizen is a file. Generally officers do not respond to these and treat them with disdain. A citizen has a right to a response. If an application or complaint is pending a government department must send a communication sending its response. If it is not done citizens should write to the head of the department or secretary drawing his attention and demanding a preliminary

enquiry. Public servants fear disciplinary action more than a financial penalty.

All authorities are duty bound to follow a law. We can change the governance of Maharashtra if we work towards getting this law implemented. Thousands of us must write to the government when this law is violated. Public pressure will result in implementation of this law, if we set our heart to it. We can get better governance in Maharashtra by persuading the government to implement it.

Shailesh Gandhi shaileshgan@gmail.com
Former Central Information Commissioner

Given below is a format for filing this complaint:

The Secretary/ Head of Department,
Mantralaya, Mumbai 400032.

Dear Sir,

I had given my application/complaint/representation for …… on ……. (copy enclosed). Since then I have received no communication. I would like to draw your attention to Section 10 of the Transfers Charters and Delays Act 21 of 2006 which mandates that no decision can be kept pending for over 45 days. In the instant case, no decision has been communicated to me despite the lapse of…… days. I request you to conduct a preliminary enquiry within 15 days to fix responsibility on the officers responsible for this delay and take appropriate disciplinary action against them. I request that the report of the enquiry may please be sent to me.

I look forward to your early action in the above matter

Yours truly

Name

Enclosed: Copy of application/complaint/representation
For BMC substitute italicised phrase with : Section 64 C of The Mumbai Municipal Corporation Act
For other Municipal Corporations: Section 72 C of The Maharashtra Municipal Corporations Act

[i]
http://www.lawsofindia.org/pdf/maharashtra/2006/2006MH21.pdf

Article for getting good governance in Economic and Political Weekly

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How to get good governance by using Act 21 of 2006

Most citizens find that when they file an application, representation or complaint with any government department, there is no response. If they want to pursue the matter they keep sending reminders. Alternately they grovel before the

officers swallowing their self respect. This is a humiliating experience and often leads to a bribe being offered. The other tool used often is to file a RTI application seeking the status or progress of their missive, hoping to draw attention or shame the official. There is a more powerful tool than RTI available to citizens in Maharashtra when dealing with the State Government departments who do not respond and respect the individual citizen. If citizens use this tool consistently, they can change the face of governance in Maharashtra. Just as widespread usage of RTI by citizens made it effective, it is necessary that citizens use this law to get response within 45 days.

The full name of this law is "Government Servants Regulation Of Transfers and Prevention Of Delay In Discharge Of Official Duties." The law was passed as Act 21 of 2006 and is also known as "Transfers, Charters and Delays Act'. Since officials were not too keen about this law, the rules were notified only in November 2013. Thus the law came into effect seven years after it was passed in the legislature! This was a gross contempt of the legislature.

Section 10 of this act mandates that 'decision and necessary action' on all files should be taken within 45 days. If more than one department is involved, the 'decision and necessary action' must be taken within 90 days. Thus in most cases a decision on a file must be taken within 45 days. It also mandates that most decisions must be taken by only three officers and no officer can keep a file pending for more than seven working days. If there is a failure to meet these deadlines is brought to the attention of the head of the department, rule 3 (6) mandates that he must enquire and fix responsibility for violation of the law within fifteen working

days of the delay being brought to his notice. The law provides for disciplinary action to be taken against officers guilty of ‘dereliction of duty’ by ‘any willful or intentional delay or negligence’. This is a very powerful provision, since government servants fear disciplinary action more than financial penalties. The RTI Act works because citizens use it and it has provision for financial penalties. In the RTI Act an Information Commissioner can impose a financial penalty of 25000 rupees but can only recommend disciplinary action against the officer who has violated the law.

This law provides for disciplinary action against delinquent officers who violate the law. However, since most citizens are unaware about this law it has not been used much. For BMC there is a similar provision in Section 64C of the Mumbai Municipal Corporation Act. Other Municipal Corporations in the State have an identical provision in Section 72C of ‘The Maharashtra Municipal Corporations Act’.

The normal approach to an application, representation or complaint is one of neglect. Usually a perfectly legitimate application or complaint cannot be rejected. If it has to be rejected reasons have to be given in writing. If the missive is not defective it is difficult to reject it. Even if there is a flawed application and the defects are pointed out, the citizen can correct them. Similarly for a complaint or representation when a response has to be given in writing it has to be based on legitimate reasons. The most common technique is not giving any response. Sometimes it is due to carelessness or incompetence. At other times it is because of corruption. There are many instances where a citizen with an aversion for bribes is forced to offer a bribe to a public servant to get his legitimate work done. Most citizen interactions with their government result in a feeling humiliation, anger and frustration.

To activate this law, a citizen only needs to send a simple complaint to the head of the department, pointing out the

violation of this law. For convenience a simple format for this is given below. If this law is implemented properly, it could bring a great change in our governance. Government is not implementing it, and citizens are barely aware of it. A sustained campaign could change this, and bring a very significant change in citizen empowerment. It would also empower the citizen and bring respect back to her.

Another aspect is that many officers procrastinate even on proposals and files from other departments within the government. One such example is the way protection of corruption is practised by not responding to proposals of sanction for prosecution by Anti Corruption Bureau. There are many such instances which together result in laziness, carelessness and corruption not being curbed. Citizens can influence this working as well.

The RTI Act has been effective since citizens have used it extensively and media has popularised it. This law can empower citizens to get responses from the government and lead to better governance if they write to the head of a department about violation of the law and insist on an enquiry being conducted. Most importantly, it would bring self respect to the individual citizen. Maharashtra could become the model of democracy and better governance for the entire nation. Stop giving bribes and use this law.

Shailesh Gandhi

If any citizen has filed a complaint/application/representation with a government department, and received no response for over 45 days they should send the following complaint to the head of the department or Secretary of the department. In case of Municipal Corporations it could be addressed to the Municipal Commissioners.

Use the format given below and report this at

www.satyamevajayte.info

I had given my application/complaint/representation for …….

on ……. (copy enclosed). Since then I have received no communication. I would like to draw your attention to Section 10 of the Transfers Charters and Delays Act 21 of 2006 which mandates that no decision can be kept pending for over 45 days. In the instant case, no decision has been communicated to me despite the lapse of…… days. I request you to conduct a preliminary enquiry within 15 days to fix responsibility on the officers responsible for this delay and take appropriate disciplinary action against them. I request that the report of the enquiry may please be sent to me.